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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2012-731**

12 **MARY ANN MAHONEY**
13 **aka MARYANN CANTWELL**
14 **9135 Loch Haven Drive**
Santa Rosa, CA 95404
15 **Registered Nurse License No. 432051**

ACCUSATION

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about August 31, 1988, the Board of Registered Nursing issued Registered
23 Nurse License Number 432051 to Mary Ann Mahoney, aka Maryann Cantwell ("Respondent").
24 The Registered Nurse License was in full force and effect at all times relevant to the charges
25 brought herein and will expire on March 31, 2014, unless renewed.

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1 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
2 himself or herself, any other person, or the public or to the extent that such use impairs his or her
3 ability to conduct with safety to the public the practice authorized by his or her license.

4 . . .

5 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
6 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
7 section."

8 8. Code section 4022 states:

9 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-
10 use in humans or animals, and includes the following:

11 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
prescription," "Rx only," or words of similar import.

12 (b) Any device that bears the statement: "Caution: federal law restricts this device to
13 sale by or on the order of a -----," "Rx only," or words of similar import, the blank
14 to be filled in with the designation of the practitioner licensed to use or order use of
the device.

15 (c) Any other drug or device that by federal or state law can be lawfully dispensed
only on prescription or furnished pursuant to Section 4006.

16 9. Code section 4060 states, in pertinent part:

17 No person shall possess any controlled substance, except that furnished to a person
18 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order
19 issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner
pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a
20 naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either
subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph
21 (5) of, subdivision (a) of Section 4052 . . .

22 10. Health and Safety Code section 11173 provides:

23 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or
24 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
25 deceit, misrepresentation, or subterfuge; or (b) by concealment of a material fact.

26 (b) No person shall make a false statement in any prescription, order, report, or record,
27 required by this division.

28 (c) No person shall, for the purpose of obtaining controlled substances, falsely assume

1 the title of, or represent himself to be a manufacturer, wholesaler, pharmacist, physician, dentist,
2 ... or other authorized person.”

3 ...
4 COST RECOVERY

5 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licentiate found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 STATEMENT OF FACTS

10 12. At all relevant times, Respondent was employed as a registered nurse at Santa Rosa
11 Memorial Hospital, Santa Rosa, California.

12 13. On or about November 22, 2010, Respondent called in an unauthorized prescription
13 to CVS Pharmacy, Santa Rosa, for 30 tablets of Norco 10¹ plus one refill, for her husband.
14 Respondent falsely reported that Dr. EW was the prescribing physician. Respondent's husband
15 denied knowledge of the Norco 10 prescription and/or consumption of this narcotic.

16 14. On or about November 28, 2010, Respondent called in an unauthorized prescription
17 to Walgreens Pharmacy, Santa Rosa, for 30 tablets of Norco 10 for her husband. Respondent
18 falsely reported that Dr. AC was the prescribing physician. Respondent's husband denied
19 knowledge of the Norco 10 prescription and/or consumption of this narcotic.

20 15. On or about December 6, 2010, Respondent called in an unauthorized prescription to
21 Rite Aid Pharmacy, Santa Rosa, for 60 tablets of Norco 10 for her husband. Respondent falsely
22 reported that Dr. EB was the prescribing physician. Respondent's husband denied knowledge of
23 the Norco 10 prescription and/or consumption of this narcotic.

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26 ¹ Norco 10 is an opiate prescribed for the treatment of moderate to severe pain. It is a
27 Schedule III controlled substance pursuant to Health and Safety Code section 11056(e)(4), and a
28 dangerous drug pursuant to Business and Professions Code section 4022. It is a medication that
can be habit forming and has associated side-effects of dizziness, lightheadedness and difficulty
in concentrating.

16. On or about December 8, 2010, Respondent called in an unauthorized prescription to Rite Aid Pharmacy, Santa Rosa, for 60 tablets of Norco 10 for her husband. Respondent falsely reported that Dr. EB was the prescribing physician. Respondent's husband denied knowledge of the Norco 10 prescription and/or consumption of this narcotic.

17. On or about December 15, 2010, Respondent called in an unauthorized prescription to the Safeway Pharmacy, Santa Rosa, for 30 tablets of Norco 10, plus one refill for her husband. Respondent falsely reported that Dr. EB was the prescribing physician. Respondent's husband denied knowledge of the Norco 10 prescription and/or consumption of this narcotic.

18. On or about December 26, 2010, Respondent called in an unauthorized prescription to the Target Pharmacy, Santa Rosa, for 60 tablets of Norco 10, plus one refill for her husband. Respondent falsely reported that Dr. EB was the prescribing physician. Respondent's husband denied knowledge of the Norco 10 prescription and/or consumption of this narcotic.

19. From July 14, 2010, to December 15, 2010, Respondent had filled 32 separate prescriptions for Norco 10, [27 for herself and 5 for her husband], receiving a total of 1,580 tablets of Norco 10 during an approximate six month period.

20. From December 27, 2010 to June 27, 2011, Respondent had filled 14 separate prescriptions for Norco 10 [12 for herself and 2 for her husband], receiving a total of 1,005 tablets of Norco 10 during an approximate six month period.

21. From July 11, 2011 to December 30, 2011, Respondent had filled 17 separate prescriptions for Norco 10, receiving a total of 840 tablets of Norco during this period of time.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Unauthorized Prescriptions for Narcotics)

22. Respondent is subject to discipline for unprofessional conduct pursuant to Code section 2761(a), as defined in section 2762(a) and Health and Safety Code section 11173, in that she obtained/possessed and/or prescribed controlled substances without physician authorization. The facts in support of this cause for discipline are set forth above in paragraphs 12 through 18.

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